

United States
Circuit Court of Appeals
For the Ninth Circuit.

LEE SAI YING, *alias* LEE HUNG CHONG,
Appellant,

vs.

THE UNITED STATES OF AMERICA,
Appellee.

Transcript of Record.

Upon Appeal from the United States District Court
for the Territory of Hawaii.

FILED

SEP 5 - 1928

PAUL P. O'BRIEN,
CLERK

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[Clerk's Note: When deemed likely to be of an important nature, errors or doubtful matters appearing in the original certified record are printed literally in italic; and, likewise, cancelled matter appearing in the original certified record is printed and cancelled herein accordingly. When possible, an omission from the text is indicated by printing in italic the two words between which the omission seems to occur.]

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NAMES AND ADDRESSES OF ATTORNEYS
OF RECORD.

For Plaintiff, United States of America:

SANFORD B. D. WOOD, United States District Attorney.

CHARLES H. HOGG, Assistant United States District Attorney, Territory of Hawaii.

For Defendant, Lee Sai Ying, *alias* Lee Hung Chong:

LESLIE P. SCOTT, Stangelwald Building, Honolulu, Hawaii. [3*]

[Endorsed]: In the United States District Court for the Territory of Hawaii. No. 5564. The United States of America, Plaintiff, vs. Lee Sai Ying, *alias* Lee Hung Chong, Defendant. Enlargement of Time for Docketing Case. Filed February 28, 1928, at 3 o'clock and 30 minutes P. M. Wm. L. Rosa, Clerk. L. Langwith, Deputy Clerk. [14]

*Page-number appearing at the foot of page of original certified Transcript of Record.

In the United States District Court for the Territory of Hawaii.

No. 5564.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEE SAI YING, *alias* LEE HUNG CHONG,
Defendant.

ENLARGEMENT OF TIME TO AND INCLUDING MARCH 28, 1928, FOR DOCKETING CASE.

For good cause shown, the time within which to docket this case and file the record thereof with the Clerk of the United States Circuit Court of Appeals for the Ninth Circuit, is hereby enlarged and extended to and including March 28, 1928.

Dated at Honolulu, T. H., February 28, 1928.

WILLIAM T. RAWLINS,
Judge, United States District Court, Territory of Hawaii. [15]

[Endorsed]: In the United States District Court for the Territory of Hawaii. 5564. The United States of America, Plaintiff, vs. Lee Sai Ying, *alias* Lee Hung Chong, Defendant. Complaint for Deportation Under the Chinese Exclusion Act. Filed May 18/27, at 2 o'clock and X minutes P. M. (S.) Wm. L. Rosa, Clerk.

I hereby order a bench warrant to issue forthwith on the within complaint for the arrest of the defendant therein named, bail being hereby fixed at \$2,500.00.

(S.) WILLIAM T. RAWLINS,
Judge, United States District Court, Territory of
Hawaii. [16]

In the United States District Court for the Ter-
ritory of Hawaii.

THE UNITED STATES OF AMERICA,
Plaintiff,

vs.

LEE SAI YING, *alias* LEE HUNG CHONG,
Defendant.

COMPLAINT FOR DEPORTATION UNDER
THE CHINESE EXCLUSION ACT.

United States of America,
District of Hawaii,—ss.

On this 18th day of May, 1927, before me, William T. Rawlins, Judge of the United States District Court in and for the Territory of Hawaii, personally appeared George A. Erbs, who, by me being first duly sworn, on oath, deposes and says as follows:

That he is a duly qualified and acting Immigration Inspector of the United States of America for the Territory of Hawaii; that Lee Sai Ying, *alias* Lee Hung Chong, is a person of Chinese descent and a Chinese laborer within the United States and within the jurisdiction of the United States Dis-

trict Court for the Territory of Hawaii without the Certificate of Residence required by the Act of Congress entitled "An Act to Prohibit the Coming of Chinese Persons to the United States," approved May 5, 1892, as amended November 3, 1893; that the said Lee Sai Ying, *alias* Lee Hung Chong, on or about the 6th day of December, 1922, did unlawfully obtain admission into the United States at the port of Honolulu by false and fraudulent representations and claim of United States citizenship made before the immigration officials at the said port of Honolulu; and that the said Lee Sai [17] Ying, *alias* Lee Hung Chong, is not lawfully entitled to be or remain in the United States, in violation of the Acts of Congress in such case made and provided.

WHEREFORE, this affiant and complainant prays that a warrant be issued directing the Marshal of this District, or his deputy, to arrest the said Lee Sai Ying, *alias* Lee Hung Chong, and bring him before this Court in order that he may be dealt with according to law and statutes in such case made and provided.

(S.) GEORGE A. ERBS.

Subscribed and sworn to before me this 18th day of May, A. D. 1927.

(S.) WILLIAM T. RAWLINS,
Judge, United States District Court, Territory of
Hawaii. [18]

PROCEEDINGS, PRESENTATION OF COMPLAINT, ARRAIGNMENT, PLEA OF NOT GUILTY AND ORDER SETTING CAUSE FOR TRIAL.

From the Minutes of the U. S. District Court, for the Territory of Hawaii.

Wednesday, May 18, 1927.

(Title of Court and Cause.)

MINUTES OF COURT—MAY 18, 1927—ORDER GRANTING MOTION FOR LEAVE TO FILE INFORMATION AND SETTING CAUSE FOR TRIAL.

On this day came the United States by its Assistant District Attorney, Mr. C. H. Hogg, and also came the defendant in person and without counsel, and this cause was called for hearing on motion for leave to file information charging violation of the Chinese Exclusion Act. Upon due hearing said motion was granted, the defendant arraigned and a plea of not guilty entered by said defendant, whereupon the Court ordered that this cause be set for trial May 24, 1927, at 9 o'clock A. M. [19]

PROCEEDINGS AT TRIAL, ORDER OF CONTINUANCE FOR FURTHER TRIAL.

From the Minutes of the U. S. District Court for the Territory of Hawaii.

Wednesday, June 8, 1927.

(Title of Court and Cause.)

MINUTES OF COURT—JUNE 8, 1927—TRIAL
(Continued).

On this day came the United States by its Assistant District Attorney, Mr. C. H. Hogg, and also came the defendant with his counsel, Mr. Leslie Scott, and this cause was called for trial. Thereupon George A. Erbs was called and sworn and testified on behalf of the prosecution. The defendant was then called and sworn and testified on behalf of the prosecution. Wm. A. Brazie was called and sworn and testified on behalf of the prosecution. Defendant's Exhibit 1 was admitted in evidence, marked and filed. George A. Erbs was recalled and gave further testimony on behalf of the prosecution. Prosecution's Exhibit "A" was admitted in evidence, marked and filed. The time for adjournment having arrived, the Court ordered that this cause be continued to June 9, 1927, at 9 o'clock A. M. for further trial. [22]

PROCEEDINGS AT FURTHER TRIAL, CASE
SUBMITTED.

From the Minutes of the U. S. District Court, for
the Territory of Hawaii.

Thursday, June 9, 1927.

(Title of Court and Cause.)

MINUTES OF COURT—JUNE 9, 1927—ORDER
SUBMITTING CAUSE.

On this day came the United States by its Assistant District Attorney, Mr. C. H. Hogg, and also came the defendant in person and with his counsel Mr. Leslie Scott, and this cause was called for further trial. Thereupon Valentine K. Richards was called and sworn and testified on behalf of the Government. Geo. E. Erbs was recalled and gave further testimony. The Government then rested whereupon counsel for the defendant also rested. Argument was then had by respective counsel and thereafter the Court took the cause under advisement. [23]

PROCEEDINGS, DECISION OF COURT, ORDER FIXING BOND.

From the Minutes of the U. S. District Court, for the Territory of Hawaii.

Tuesday, September 27, 1927.

(Title of Court and Cause.)

MINUTES OF COURT—SEPTEMBER 27, 1927
—DECISION AND ORDER FIXING
BOND.

On this day came the United States of America by its Assistant District Attorney, Mr. C. H. Hogg, and also came the defendant with his counsel, Mr. Leslie P. Scott, and this case was called for decision. Thereupon the Court ordered that the above-named defendant be deported to China, the country whence he came. Mr. Scott entered an exception to said ruling, which exception was allowed by the Court. Thereafter the findings, judgment and order of deportation was filed, bond fixed in the sum of \$5,000.00, and the defendant remanded to the custody of the United States Marshal, pending filing of bond. [24]

[Title of Court and Cause.]

INDEX TO WITNESSES:

For Government:

	Direct	Cross	Redirect	Recalled
George A. Erbs	2	4		16-23
Lee Sai Ying	4	5	6	13
William Brazie	14	14		
Valentine K. Richards		22		

Reporter's Certificate, p. 40.

Defendant's Exhibit 1, Certificate, p. 16.

Government's Exhibit "A," p. 20.

[Endorsed]: Filed May 4th, 1928, at 9 o'clock and X minutes A. M. [25—1]

[Title of Court and Cause.]

PROCEEDINGS HAD JUNE 8, 1927.

Transcript of testimony and proceedings in the above-entitled matter, taken before the Honorable William T. Rawlins, Judge, United States District Court, Territory of Hawaii, at Honolulu, T. H., on Wednesday, June 8, 1927, at 9 o'clock A. M., Charles H. Hogg, Esq., Assistant United States Attorney, representing the United States of America, and the defendant being present in person and represented by his attorney Leslie P. Scott, Esq., R. N. Linn, official court reporter, present.

WHEREUPON, the following proceedings were had and testimony taken, to wit:

TESTIMONY OF GEORGE A. ERBS, FOR
THE GOVERNMENT.

GEORGE A. ERBS, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. HOGG.)

Q. Please state your name. [26—2]

A. George A. Erbs.

Q. What is your official position, Mr. Erbs?

A. I am Immigration Inspector at the Immigration Station, Honolulu.

Q. How long have you been such official, approximately? A. About three years.

Q. Are you acquainted with that gentleman over there,—the defendant in this case? A. Yes.

Q. Mr. Lee Sai Ying? A. Yes, sir.

Q. Do you know whether or not he is a Chinese person?

A. He informed me that he was of the Chinese race.

Q. He informed you in person. When did he do that?

A. On or about the 7th or 8th of May, last.

Q. Do you know what his business, following or occupation is?

A. I believe he told me that he was a laborer.

Q. He told you that he was a laborer?

A. Yes.

(Testimony of George A. Erbs.)

Q. Where did you find him?

A. At 1015 Maunakea Street.

Q. In this city? A. Yes, sir, Honolulu.

Q. Do you know whether or not he has the certificate of residence required by the Act of 1892, amended by the Act of 1893?

A. I know he told me that he had a certificate.

[27—3]

Q. Did you ask him for one?

A. Certificate of residence? No.

Cross-examination.

(By Mr. SCOTT.)

Q. When was it that the defendant informed you that he was a Chinese merchant, Mr. Erbs?

A. He never informed me that he was a Chinese merchant.

Q. A Chinese person? A. Yes.

Q. He told you that he was a laborer?

A. Yes.

(Witness excused.)

TESTIMONY OF LEE SAI YING, FOR THE
GOVERNMENT.

LEE SAI YING, the defendant, called as a witness for the Government, being first duly sworn, testified as follows: (Through the official Chinese interpreter).

Direct Examination.

(By Mr. HOGG.)

Q. Let us have your name. A. Lee Sai Ying.

(Testimony of Lee Sai Ying.)

Q. You are the defendant in this case?

A. Yes.

Q. Have you a certificate of residence issued by any Government official to you?

A. I don't know what the certificate of residence is, but I have a certificate in my possession. [28—4]

Q. Would you let me see that certificate?

A. The Immigration Office at Honolulu retained my certificate.

Q. Is this it? A. Yes, that is mine.

Q. Is that the only certificate issued by any immigration or custom officials to you?

A. That is the only one.

Mr. SCOTT.—I move to strike out all the testimony of this witness on the grounds that this defendant is seeking to and did come into the country as an American citizen; that no certificate of residence is required of a Chinese entering the United States,—he is basing his claim upon American citizenship.

(Argument.)

The COURT.—Motion denied.

Cross-examination.

(By Mr. SCOTT.)

Q. How old are you? A. Thirty-two years.

Q. You were born then in 1895?

A. I cannot remember the year and date.

Q. About what month were you born?

A. February 25, Kwong See '25.

(Testimony of Lee Sai Ying.)

Q. Where were you born?

Mr. HOGG.—May it please the Court, I object to this line [29—5] of cross-examination, the defendant was put on the stand for the purpose of finding out if he had a certificate of residence, and he can be cross-examined on that one proposition, may it please the Court, but he cannot be examined on anything else. If he wants to make him his own witness we have no objection.

The COURT.—The Court will give you the right to take him on redirect; you will have your opportunity to question him. Objection overruled.

Q. Where were you born?

A. Smith and Hotel Street corner.

Q. Where? A. Smith and Hotel, Honolulu.

Q. In October,—what year?

A. I cannot remember the year.

Q. In any event you know that you are 32 years old? A. Yes.

Redirect Examination.

(By Mr. HOGG.)

Q. When did you say you were born?

A. February 25th, 1921,—not 1925; it was Kwong See, February 25, 1921.

Q. Is that what he said?

A. In Chinese, Kwong See 21.

The COURT.—He says he was born on the corner of Smith and Maunakea Streets. What month and what year?

A. I don't know the American year. [30—6]

(Testimony of Lee Sai Ying.)

The COURT.—Give us the Chinese year?

A. Kwong See 21.

Q. Kwong See 21,—that is 1895. What month and what day? A. February 25th.

Q. Chinese count? A. Yes.

Q. That would be the 19th of February, 1895.

Mr. HOGG.—Q. What month did you say?

A. Kwong See 21.

Q. What month? A. February 25th.

Q. Can you give me the month, Chinese count?

A. That is Chinese count.

Q. You came into the United States in 1922, didn't you? A. Yes.

Q. And at that time you were asked your age and you stated that you were born March 21st, 1895. Now, which is correct, March 21st or February 25th?

A. It is February 25th, is the correct date.

Q. How do you know you were born here in Honolulu? A. My parents told me so.

The COURT.—Q. Where are your parents?

A. Sun Ching.

Q. How old were you when you left here?

A. According to Chinese count when I was three years of age, when I left here.

Q. Who went with you? [31—7]

A. My parents.

Q. Did you ever hear about the ship you went on? A. "Peking."

Q. Do you remember the date?

A. Some time in October.

(Testimony of Lee Sai Ying.)

Q. What was your father's name?

A. Lee Long.

Q. And your mother's name?

A. Wong, her surname is.

Q. What is the rest of the name?

A. Her name is Wong; that is all I know.

Q. Was your mother living? A. Yes.

Q. You do not know whether it is Wong Shee, Wong Lee, Wong Duck or anything; all you know is that your mother's name is Wong, is that it?

A. It is Wong, or Wong Shee.

Q. What was your father's business when he was here?

A. Well, he sell vegetables and sometimes eggs, and so forth.

Q. Was he a peddler or did he have a place of business? A. He is a peddler.

Q. Well, now, you are talking about what you heard about his business when he was in Honolulu, is that right? A. That is what I heard.

Q. Do you know anybody here that knew your father when he was here? [32—8] A. A few.

Q. You left here when you were three years old, and you came back here when you were twenty-seven, is that right? A. Yes.

Q. How did you happen to come back after 24 years, to the Territory?

A. Because I am a citizen is why I came back.

Q. What prompted you after 24 years,—you were 27 years old when you started back here,—what were the reasons for your coming here, did

(Testimony of Lee Sai Ying.)

you have any discussion with anybody or did anybody send for you, or anything?

A. Because I wanted to come back here, because I am a citizen.

Q. Did your father ever say anything to you about coming back to Hawaii?

A. Why, yes, he said that I am born in the Territory here, if I want to go back to Hawaii I can go back to Hawaii.

Q. When did he tell you that?

A. That was in China.

Q. When? A. I can't remember.

Q. How many times did you discuss Hawaii with your father? A. I can't remember.

Q. Did you ever talk about the Islands with your mother? [33—9]

A. Yes, she told me that I was born in Hawaii.

Q. Now, you tell me some of the things that your father and mother told you about Hawaii, life in Hawaii. Just tell me some of the things.

A. Yes, my parents had a discussion about his business in Honolulu here, saying that he is in the vegetable business and that he peddles eggs, and that it is pretty hard to make a living here, it is not easy to make money, and there is some other discussion now which I forget.

Q. I do not care about discussions; do you remember any incident that they related to you about the time they lived in Hawaii, anything about the number of years they had lived here, something about the life here, or anything like that? Tell us

(Testimony of Lee Sai Ying.)

all you can remember about what they said. You were 27 years old when you left home. By the way, did you live with your parents up to the time you left home? A. Yes.

Q. Were you married? A. Yes.

Q. Where is your wife? A. In China.

Q. And during the time previous to your coming here, I understand you lived at home with your parents, is that right? A. Yes. [34—10]

Q. Have you any brothers or sisters?

A. No, I am the only one in the family.

Q. Now, tell us anything that you can remember about what your father and mother may have told you, or what you may have overheard them say, about the Hawaiian Islands, and life here.

A. I can't remember. I know they spoke to me about it, but I really can't remember it.

Q. Where did you get the money to come out here? A. I got money.

Q. Where did you get it?

A. Well, my parents give it to me.

Q. What work did you do in China?

A. Farming.

Q. What kind of work are you doing here?

A. I do anything.

Q. Have you any steady employment?

A. No, but sometimes I work for the restaurant and sometimes daily work.

Q. When you landed here where did you go?

A. Kwai Yau.

Q. Where is that? A. Kaimuki.

(Testimony of Lee Sai Ying.)

Q. That is L. Kwai Yau, that grocery store up there? A. Yes.

Q. How long did you remain there?

A. I didn't work there, just go there is all.
[35—11]

Q. Are you any relation to any of those people there? A. No.

Q. How did you happen to go there?

A. Well, I went up there, so I bring my baggage up there.

Q. You do not need to be afraid to answer my questions. I want to know how it was that after you came to Honolulu and landed, passed the Immigration Station, how you came to go to L. Kwai Yau's store at Kaimuki?

A. Well, I don't know; the driver took me up there.

Q. Did the driver come to the Immigration Station and get you? A. Yes.

Q. Well, when you left China did you know you were to go to L. Kwai Yau's place?

A. No, before I left and when I was on the boat coming here I don't know where I am going, but when I got down to the Immigration Station I think it was one of the witnesses instructed the driver to take me up to L. Kwai Yau's store.

Q. Who were your witnesses? A. Lee Tan.

Q. Who else? A. Jong Tai Fong.

Q. Where are Lee Tan and Jong Tai Fong?

A. I don't know where they are now.

Q. When did you last see them? [36—12]

(Testimony of Lee Sai Ying.)

A. After I landed here.

Q. How long after you landed here was the last time you saw them?

A. The time I was arrested.

Q. When was that?

A. I can't remember the date.

Q. Was it a few days ago you saw these two witnesses? A. About two weeks ago.

Q. That is the last time you saw them?

A. Yes, that is the last time I have seen them.

Mr. HOGG.—Q. When was it that you went to China? Did you say you went to China? How old were you? A. Chinese count, three years.

Q. Do you remember on what date you went to China?

A. According to Chinese count it was sometime in October, Kwong See 23.

The COURT.—That would be 1897.

Recross-examination.

(By Mr. SCOTT.)

Q. What witnesses did you say you had down here at the time you were arrested and examined?

A. Lee Tan; there is only one, by the name of Lee Tan.

Q. Who else?

A. I know of my own knowledge by the name of Lee Tan, that is all down there, but there were two others they could not find, they could not get them. [37—13]

(Testimony of William A. Brazie.)

Q. Did you testify here as to what their names were? A. Lee Tan and Jong Tai Fong.

(Witness excused.)

TESTIMONY OF WILLIAM A. BRAZIE, FOR
THE GOVERNMENT.

WILLIAM A. BRAZIE, called as a witness for the Government, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. HOGG.)

Q. State your name in full.

A. William A. Brazie.

Q. Your official position?

A. Assistant director of the United States Immigration Service, Honolulu, Hawaii.

Q. For approximately how long have you occupied that position? A. Three years two months.

Q. I ask you to examine that receipt, that certificate. Is that the certificate of residence required by the Chinese Exclusion Act of 1892 as amended in 1893? A. It is not.

Cross-examination.

(By Mr. SCOTT.)

Q. Mr. Brazie, I show you this Certificate of Identity, Number 43097, issued by the Department of Labor of the United States of America to Lee Sai Ying. Do you [38 — 14] recognize that as being a certificate of identity issued to this defendant here?

(Testimony of William A. Brazie.)

A. It is a certificate of identity; I could not state whether it was issued to this defendant or not.

Q. You know the signature of Mr. Halsey, do you? A. Fairly well; yes, sir.

Q. Would you recognize that as his signature?

A. That appears to be the signature of Richard L. Halsey, formerly inspector in charge at Honolulu.

Q. Now, at the time that the defendant, Lee Sai Ying, was arrested here and examined before the Immigration authorities was this certificate taken away from him do you know?

A. I do not know.

Q. Who was the examining officer?

A. Inspector George A. Erbs.

(Recess.)

Q. I show you this certificate of identity issued to Lee Sai Ying, *alias* Lee Hung Chong, and ask you if that is the certificate of identity which was issued,—the form, to Chinese who are admitted to the United States? A. It is.

Q. And you recognize the signature of Richard L. Halsey the immigration official in charge, as being his signature?

A. I think that is Mr. Halsey's signature; it looks like it. [39—15]

Mr. SCOTT.—I offer this certificate of identity in evidence. It is Number 43,097 issued by the Department of Labor, United States of America, to

(Testimony of George A. Erbs.)

Lee Sai Ying, *alias* Lee Hung Chong, dated the 1st day of February, 1923.

The COURT.—It may be admitted, and marked Defendant's Exhibit "1."

(Certificate is received and marked Defendant's Exhibit "1.")

TESTIMONY OF GEORGE A. ERBS, FOR THE
GOVERNMENT (RECALLED).

GEORGE A. ERBS, recalled by the Government, testified as follows:

Direct Examination.

(By Mr. HOGG.)

Q. Did you conduct an examination of this defendant during the past month of this year?

A. Yes, sir.

Q. Where?

A. At the Immigration Station, Honolulu.

Q. At that time did you compare the testimony he gave you with the testimony he gave the immigration officers when he came into the United States in 1922? A. Yes, sir.

Q. In speaking of the character of his mother's feet what does the record of 1922, when he first came in here, say with relation to his testimony?

The COURT.—Isn't the record the best evidence of what [40—16] was said. Why is Mr. Erbs in any better position than the Court to determine what these two records say; why should the Court

(Testimony of George A. Erbs.)

be bound by the conclusions of Mr. Erbs as to what was said?

Mr. HOGG.—Q. Have you the official record of this man's entrance here?

The COURT.—Pick out the record asked about, the one about this defendant, and tell us what that record is.

A. This is the record of 1922; also at the present time.

Mr. HOGG.—Q. Now you have identified it. Put it together and submit it to counsel for the defendant for his inspection. Is that an official record from the Department of Immigration?

A. Yes, sir.

Q. Part of the files of your office required by law to be kept? A. Yes.

Q. Relative to the admission of aliens into the United States or persons coming into the United States, produced from the records of your office?

A. Yes, sir.

Q. Is this the whole record in the matter?

A. Yes, I believe it is.

Q. Of the examination in 1927 too?

A. In the examination of 1922 and of 1927.

(Recess.) [41—17]

Q. What is that bunch of papers, Mr. Erbs?

A. That is the complete record of the Immigration file in the City of Honolulu of Lee Sai Ying.

Q. The defendant in this case? A. Yes, sir.

Mr. HOGG.—May it please the Court, we offer

(Testimony of George A. Erbs.)

that record, complete, as it is, as evidence, at this time.

Mr. SCOTT.—If your Honor please, I object upon the grounds, amongst other things, that this record is not in any way, shape or manner an official proceeding; that the record was made through an interpreter, and that in an *ex parte* proceeding the defendant in that case, in this investigation, was not given benefit of counsel; he had no opportunity to examine either the witnesses or the interpreter, or to cross-examine. I do not think that it should be admitted.

The COURT.—Is this your official record?

A. Yes, sir.

Q. All the investigations made there were officially made? A. Yes, sir.

Q. The interpreter used was your regular official interpreter, connected with your department?

A. Yes, sir.

Mr. SCOTT.—I further object to it, your Honor.
[42—18]

(Argument.)

The COURT.—Objection overruled.

Mr. SCOTT.—I take an exception. If your Honor please, I object also because there are a couple of letters in that evidence.

The COURT.—All we are interested in is the proceedings at those hearings; whatever else may be there will not be considered.

(Document received and marked Government's Exhibit "A.")

(Testimony of George A. Erbs.)

Q. Have you the department record of Lee Long, the alleged father of this defendant?

A. That departure record is in the Archives Building.

Q. Have you had occasion to examine that departure record? A. Yes.

Q. At the Archives? A. Yes.

Q. The only place where the record is now?

A. That is the only place I know of.

Q. That record is kept there complete?

A. Yes. [44—20]

Q. The record prior to the annexation of the Islands to the United States? A. Yes, sir.

Q. What does that departure record say?

Mr. SCOTT.—I object to that, your Honor.

Q. What does that say relative to the number of children that went away with Lee Long and his wife at this time?

Mr. SCOTT.—I object, your Honor, on the grounds that the record itself is the best evidence.

The COURT.—Objection sustained.

(Whereupon an adjournment was taken until 9 o'clock A. M., Thursday, June 9, 1927.) [45—21]

[Title of Court and Cause.]

The above-entitled matter came duly on for further hearing on Thursday, June 8, 1927, at 9:30 o'clock A. M., all parties being present as before, whereupon the following proceedings were had and testimony taken:

TESTIMONY OF VALENTINE K. RICHARDS,
FOR THE GOVERNMENT.

VALENTINE K. RICHARDS, called as a witness on behalf of the Government, being first duly sworn, testified as follows:

Direct Examination.

(By Mr. HOGG.)

Q. State your name, please.

A. Valentine K. Richards.

Q. Your official position, if any?

A. Clerk of the Public Archives.

Q. Of the Territory?

A. Of the Territory of Hawaii.

Q. Have you there the outgoing manifest of the City of Peking for October— A. Yes, sir. [46—22]

Q. October, 1897? A. Yes, sir.

Q. I will ask you to look at the manifest and see if there is a departure there of one Lee Long, *alias* Lee Ping Tong. A. Lee Long here.

Q. How does that item read?

A. Lee Long and wife and child.

Mr. HOGG.—Now, may it please the Court, this is a record of the Territory and it is very difficult to have it remain here. I have asked the question, without offering the record as evidence, for that reason, subject to objection if counsel wants to object to it.

Mr. SCOTT.—As a matter of fact, your Honor,

(Testimony of Valentine K. Richards.)

the record is not admissible here, but I have no objection to its being testified to.

Q. There is not any other name, Lee Long or Lee Ping Tong on that manifest?

A. There is a name here Lee Ping, or "Ring," I cannot make it out.

(Cross-examination waived.)

TESTIMONY OF GEORGE A. ERBS, FOR THE
GOVERNMENT (RECALLED).

GEORGE A. ERBS, recalled as a witness for the Government, testified as follows:

Direct Examination.

(By Mr. HOGG.)

Q. Mr. Erbs, have you examined the records of your [47—23] office for records of Chinese,—Chinamen who returned to this port claiming they departed on the record of Lee Long, *alias* Lee Ping Tong?

Mr. SCOTT.—May I ask what is the purpose of this examination?

Mr. HOGG.—The purpose of this examination is to show that on this record of departure of the parents,—mother and one child, there have come into this port three or four different Chinese persons claiming to be this particular child, and this defendant is one of them.

A. Yes. The records of the Immigration Service of Honolulu show that four boys came back claiming to be Lee Long's boy, who departed on October

(Testimony of George A. Erbs.)

9th, 1897, with his wife and his child on the City of Peking.

Q. Four have come back claiming to be that boy?

A. Four. Four different records.

Q. And this defendant is one of those four?

A. Yes, sir.

The COURT.—Where are those records?

A. Here.

Mr. SCOTT.—If your Honor please, I object to the admission of these records. There has been no foundation laid upon which they can be offered in evidence.

The COURT.—They have not been offered as yet.

Mr. HOGG.—I did not intend to offer the records in [48—24] evidence. We have the testimony before the Court. The records are there, and it is the policy of the immigration people to keep the records in their own control.

Cross-examination.

(By Mr. SCOTT.)

Q. Mr. Erbs, I would like to show you Certificate of Identity, marked Defendant's Exhibit 1, issued to Lee Sai Ying by the United States—by the Department of Labor of the United States, numbered 43097, and ask you if that is the certificate of identity that you took from the defendant here at the time of his examination before you, on or about May the 18th? A. Yes, sir.

Q. And you recognize this? You identify this

(Testimony of George A. Erbs.)

as being a photograph of Lee Sai Ying, the defendant? A. Yes, sir.

Q. This has been in your possession since that date, has it not?

A. It has been with our records pertaining to him.

Q. Now, Mr. Erbs, this examination that you conducted upon the arrest of the defendant here, Lee Sai Ying, on May the 17th or May the 18th of this year,—whom did you examine?

A. I examined this defendant, Lee Sai Ying, and also a Chinese named Lee Tang or Dan.

Q. Lee Dan? [49—25]

Q. At the time that you examined Lee Dan was the defendant present? A. He was.

Q. He was there before you?

A. Yes, he was in the same room.

Q. Does that appear of record?

A. I believe it does; it should be at the heading of Lee Dan's examination.

Q. He was not represented by counsel, however, was he, the defendant?

A. No, not that I know of.

Mr. SCOTT.—If your Honor please, at this time I should like to make a motion to strike from the record the statement of Lee Dan made in the examination on the 17th and 18th of May, 1927, held before G. A. Erbs, inspector, and which is contained in the Government's record filed in this case, in its Exhibit "A." I make this motion upon the grounds that this evidence is hearsay; that Lee Dan

has not been produced as a witness in this case; that it is nothing more or less than an *ex parte* statement taken at an informal hearing before Mr. Erbs, an inspector of immigration; that it is not binding upon the defendant in this case, and that it is nothing more or less than a statement taken unofficially, *ex parte*. Now, as a matter of fact, this statement is no more admissible, your Honor, [50—26] than any statement or affidavit taken in the preparation of any case in the absence of any testimony by the witness who made the statement in that case. Lee Dan is not a witness here; he has not been called by the Government. The only way in which any such statement can be made is this: That where, as a matter of fact, a witness is called and has before that time made some statement, he may be confronted with that statement to impeach him. I will admit, if your Honor please, that the record—

The COURT.—All the Court admitted was the statement of this witness,—the statement made in 1927.

Mr. SCOTT.—Then your Honor will strike it?

The COURT.—I will ignore it altogether.

Mr. SCOTT.—Your Honor, I ask in case there may be an appeal in this case, that that statement be withdrawn from the record.

The COURT.—That is all right. The record will show the examination of this man in 1922 when he entered and his examination in 1927. They may bring in here a stack of papers as high as the Bible

and it would not make any difference. Take it out of the record and proceed with the case.

Mr. HOGG.—Has the Court already ruled on this thing?

The COURT.—You are directed, Mr. United States Attorney, to forthwith issue a subpoena to Lee Dan [51—27] to appear before this Court. Is the defendant going to call any witnesses?

Mr. SCOTT.—None. Do I take it that Lee Dan will be used as a witness for the Government?

The COURT.—No. I want to have him handy here. [52—28]

The COURT.—Gentlemen, what do you do?

Mr. HOGG.—We rest.

Mr. SCOTT.—The defendant rests.

The COURT.—Are you ready to argue?

Mr. HOGG.—We are, may it please the Court.

Mr. SCOTT.—Yes, your Honor.

(Mr. Hogg makes opening argument for the Government.)

(Mr. Scott makes his argument.) [61—37]

(Mr. Hogg makes concluding argument for the Government.)

The COURT.—This matter will be taken under advisement and a decision rendered at an early date. [63—39]

I HEREBY CERTIFY the foregoing to be a full, true and correct transcript of my shorthand

notes taken in the above-entitled matter, the same consisting of thirty-nine typewritten pages.

R. N. LINN,
Official Reporter.

Honolulu, T. H., April 25, 1928. [64—40]

DEFENDANT'S EXHIBIT No. 1.

No. 43097.

ORIGINAL.
Defts. Exhibit 1.
Case #5564.

THE UNITED STATES OF AMERICA.

DEPARTMENT OF LABOR.

Certificate of Identity Under Rules Relating to
Chinese Residents.

This is to certify that the Chinese person named and described on the reverse side hereof has been regularly admitted to the United States, as of the status indicated, whereof satisfactory proof has been submitted. This certificate is not transferable and is granted solely for the identification and protection of said Chinese person so long as his status remains unchanged; to insure the attainment of which object an accurate likeness is attached, with his name written partly across, and the official seal of the United States Immigration Officer signing this certificate impressed partly over said photograph.

DESCRIPTION.

Name: LEE SAI YING, *alias* LEE HUNG CHONG.

Age: 27. Height, 5 ft. 5 in.

Occupation: Student; c/o L. Kwai Yow Co., Kaimuki, Honolulu, T. H.

Admitted as HAWAIIAN BORN, ex S/S. "Pres. PIERCE," Nov. 27th, 1922; file No. 4382/1726.

Physical marks and peculiarities: Pock-marks on forehead.

Issued at the port of Honolulu, T. H. this 1st day of February, 1923.

(S.) RICHARD L. HALSEY,
Immigration Official in Charge.

(Photograph)

(Seal)

(S.) LEE SAI YING, *alias* LEE HUNG CHONG. [65]

GOVERNMENT'S EXHIBIT "A."

U. S. DEPARTMENT OF LABOR.

Immigration Service,

Honolulu, T. H.

4382/1726.

May 17, 1927.

In re: LEE SAI YING, *alias* KEE HUNG
CHONG.

Present: G. A. ERBS—Inspector.

W. K. LEONG—Interpreter.

HELEN W. MULLER—Stenographer.

LEE SAI YING—Witness.

EXAMINING INSPECTOR to WITNESS.—

I am an Inspector in the Service of the United States Immigration Service and desire to take a voluntary statement from you concerning your right to be and to remain in the United States. Do you desire to make such statement voluntarily under oath?

A. Yes.

Witness sworn and testifies through Interpreter as follows:

Q. State all of your names?

A. Lee Sai Ying; marriage name, Lee Hung Chong. I have no other name.

Q. How old are you?

A. 32 years old, Chinese count.

Q. When and where were you born?

A. On the 2d month 25th day KS. 21 (March 21, 1895) on Hotel and Smith Streets, Honolulu.

Q. You are advised that any statement you make

to me may be used against you in future criminal proceedings. Do you fully understand that?

A. Yes.

Q. Were you born at the corner of Smith and Hotel Streets, Honolulu?

A. It was around the corner.

Q. On which street did your house face?

A. I do not know on what street my house faced but it was around the corner of Smith and Hotel Streets.

Q. How do you know that you were born around the corner of Smith and Hotel Streets, Honolulu?

A. My father and mother told me that.

Q. What did they tell you and when?

A. They told me that I was born somewhere around the corner of Smith and Hotel Streets, that was at the time I was coming to Honolulu.

Q. When was that? A. That was in 1922.

Q. And that was the first time that your father or mother told you that you were born somewhere around Smith and Hotel Streets, Honolulu?

A. No, that was told me before then but they reminded me at that time.

Q. What is your occupation?

A. I have no occupation at this time.

Q. What was your last occupation?

A. I was a vegetable salesman at Aala Market for Wo Kee Company.

Q. Did you have an interest in that store?

A. No, I just worked for a salary.

Q. How long have you been out of employment?

A. About three months.

Q. What have you been doing during the past three months? A. Nothing.

Q. Where do you live?

A. I live on Kamanuwai Lane in the Kwong Yee Society Building. My room number is 14.

Q. Of what race are you?

A. I am of the Chinese race.

Q. Have you ever visited the home in which you were born? A. No, the place is changed.

Q. How do you know that it is changed?

A. I do not know whether it is changed or Government's Exhibit "A."

Admitted and filed June 8, 1927. [66]

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not but it has been such a long time, I think that it has been changed.

Q. Have you ever been shown the house in which you were born? A. No.

Q. Then you would not know the house in which you were born—is that correct?

A. Yes, I would not know it.

Q. How old were you when you first learned that you were born somewhere around Smith and Hotel Streets, Honolulu?

A. When I was about 13 or 14 years old.

Q. That was the first time that anyone ever told you that you were born in the Hawaiian Islands—is that correct? A. Yes.

Q. Who told you at that time?

A. My father and mother.

Q. Where were you living at that time?

A. At Sun Chin Village, China.

Q. Before you were 13 or 14 years old, where did you believe you were born?

A. I was small then, I did not think of it. I did not know where I was born.

Q. When did you last return from China?

A. In November, 1922, on the SS. "President Pierce."

Q. How old were you at that time?

A. 27 years old, Chinese count.

Q. Whom does this photograph represent—referring to photograph of Lee Sai Ying *alias* Lee Hung Chong attached to application and receipt of Certificate of Identity No. 43097 contained in file 4382/1726? A. That is myself.

Q. Is this your certificate of Identity which you gave me just a few moments ago?

A. Yes. (Referring to Certificate of Identity No. 43097 upon which applicant obtained receipt as shown above. Photograph attached is a good likeness of the present applicant.)

Q. Are your parents living?

A. Yes, both of them.

Q. What is the name of your father?

A. Lee Long, marriage name Lee Ping Bo.

Q. Has he any other name? A. No.

Q. How old is he?

A. 66 years old, Chinese count.

Q. Where is he living?

A. At Sun Chin Village, China.

Q. What is he doing there?

A. I do not know.

Q. What was he doing when you were last in China? A. A vegetable gardener.

Q. What was the name of your mother?

A. Wong Shee.

Q. How old is she? A. About 58 years old.

Q. What is her native village?

A. Wong Uck Hang Village, Heung Shan District, China.

Q. What kind of feet has she? A. Bound feet.

Q. What kind of feet did she have when you were last in China? A. Unbound feet.

Q. Do you know the difference between bound feet and unbound feet and natural feet?

A. Yes.

Q. What do you mean by bound feet?

A. Feet all tied up and small.

Q. What do you mean by unbound feet?

A. Feet that had been bound but are now untied and a bit larger than bound feet.

Q. What do you mean by natural feet?

A. The same as your feet and my feet; feet that have never been strapped in.

Q. What kind of feet has your mother?

A. My mother had bound feet when I was last in China.

Q. You are sure that your mother had bound feet when you were last in China?

A. Yes. [67]

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Q. Why did you just a moment ago state that she had unbound feet?

A. That was a mistake, she has bound feet.

Q. Has she ever to your knowledge unbound her feet for any length of time? A. No.

Q. And your mother has always to your knowledge had little feet and bound?

A. Yes, she has always had bound feet.

Q. Does your mother walk with a natural gait the same as any woman with natural feet?

A. No, she walks stiffly.

Q. Just about how big are your mother's feet?

A. About five inches in length with *shows* on.

Q. Did you testify in this office when you were an applicant for admission in 1922? A. Yes.

Q. When you testified at that time you stated that your mother, Wong Shee, had natural feet—was that statement true?

A. That statement was not correct.

Q. Then the statement you have given at this time regarding your mother's feet as being bound is correct—is that so? A. Yes.

Q. Why did you testify in 1922 when you were an applicant for admission that your mother had natural feet when now you claim she has always had bound feet?

Q. My mother has bound feet, the statement I made in 1922 is incorrect.

Q. Have you always lived with your mother at Sun Chin Village until you came here in 1922?

A. Yes.

Q. Then there was no excuse for you stating that your mother had natural feet when she had bound feet? A. No, she has bound feet.

Q. Have you a brother or sister? A. No.

Q. Did you ever have a brother or sister that died? A. No.

Q. Are your father's parents living? A. No.

Q. What was the name of your paternal grandfather?

A. Lee Chuck Sum, I do not know his other name.

Q. How old was he when he died?

A. I do not know.

Q. Did you ever see him? A. No.

Q. What was the name of your paternal grandmother? A. Sui Shee.

Q. When did she die?

A. A long time ago, I do not know when.

Q. Did you ever see her? A. No.

Q. Has your father a brother or sister?

A. No.

Q. Did he ever have a brother or sister who died?

A. No.

Q. Are your maternal grandparents living?

A. No, they also are dead.

Q. What was the name of your maternal grandmother? A. I do not know.

Q. Did you ever see her? A. No.

Q. What was the name of your maternal grandfather? A. I do not know.

Q. Did you ever see him? A. No.

Q. Has your mother a brother or sister living?

A. No.

Q. Did your mother ever have a brother or sister that died? A. No.

Q. Doesn't it seem rather strange that for three generations there is only one person in the family?

A. No, there was only one in each family of us.

Q. Has your father ever been in the Hawaiian Islands? A. Yes.

Q. When did he first come here?

A. I do not know.

Q. Did you ever hear? A. No.

Q. Was your mother ever in the Hawaiian Islands? A. Yes. [68]

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Q. When did she first come here?

A. I do not know.

Q. How many trips have you made to China?

A. One only.

Q. When did you make that trip to China?

A. KS. 23.

Q. What month? A. 10th month.

Q. What day? A. I do not remember the day.

Q. Is that Chinese or English count?

A. I do not know whether it is Chinese or English count. My mother told me it was the 10th month in KS. 23 but she did not say whether it was Chinese or English count.

Q. On what ship did you leave for China?

A. SS. "Peking."

Q. With whom did you leave?

A. With my father and mother.

Q. Did your father ever return to the Hawaiian Islands from that trip? A. No.

Q. Did your mother ever return to the Hawaiian Islands from that trip? A. No.

Q. And you returned here ex SS. "President Pierce" in November 1922—is that correct?

A. Yes.

Q. And how old were you when you went to China with your parents?

A. About three years, Chinese count.

Q. How old was your father when you went to China with him?

A. About 36 years old at that time.

Q. You are sure of that? A. Yes.

Q. What was the occupation of your father in the Hawaiian Islands before he went to China with you and your mother?

A. He was an egg and vegetable peddler.

Q. Did he have a store or did he peddle it from place to place? A. He was a peddler.

Q. And he never had a store in the Hawaiian Islands to your knowledge? A. No.

Q. How do you know that he was an egg and vegetable peddler in the Hawaiian Islands?

A. He told me that.

Q. When did he tell you?

A. Just before I came to Honolulu in 1922.

Q. Did he ever tell you that he followed any other occupation besides that of peddling of eggs and vegetables? A. No.

Q. Did he tell you that peddling eggs and vegetable was the last occupation he followed here?

A. Yes.

Q. Have you any documents showing your birth in the Hawaiian Islands?

A. No. I have nothing except the Certificate of Identity which I gave to you.

Q. Do you know whether you were issued any kind of certificate before you left the Hawaiian Islands in KS. 23? A. No.

Q. Did your father obtain a certificate before he left the Hawaiian Islands in KS. 23?

A. I do not think so.

Q. Did you ever see a certificate issued to your father before he left the Hawaiian Islands in KS. 23? A. No.

Q. Did he ever tell you whether or not he obtained a certificate before he left here in KS. 23?

A. No, he never told whether he received a certificate or not.

Q. Did you ever see a certificate issued to your father before he left the Hawaiian Islands?

A. No.

Q. And he never told you about receiving any?

A. No.

Q. If your father had received a certificate do you think that he would have told you before you arrived here in 1922?

A. Yes, I believe he would have. He never told me about receiving any certificate before going to China.

Q. How do you know that you went to China in KS. 23 10th month on the SS. "Peking"? [69]

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A. My father and mother told me that while I was in China.

Q. Did they tell the names of anyone else who went to China at that time? A. No.

Q. Where did you live just before coming here in 1922? A. At Sun Chin Village, China.

Q. What part of the village?

A. Near the tail of the village.

Q. Does your house at Sun Chin Village face a street or lane? A. Faces a lane.

Q. Is that the only house at Sun Chin Village that your father owns? A. Yes.

Q. Did you live in the same house at Sun Chin Village ever since you went there in K.S. 23 until you returned here in 1922? A. Yes.

Q. On what side of the lane is that house going in? A. On the left-hand side.

Q. Which house on the left-hand side is yours?

A. First house in the lane near the street.

Q. Who lives in the next house on the same side of the lane? A. Lee Ah Chee.

Q. Where is he now? A. He is dead.

Q. When did he die?

A. He died before I came to Honolulu, about twenty years ago.

Q. How many houses in that lane on the same side of the lane that your house is on?

A. Two houses, including ours.

Q. How many houses on the other side of the lane? A. One house.

Q. Who was living in your house at Sun Chin Village before you came here in 1922?

A. My father, my mother, my wife, Young Shee and my son, Lee Chan Quan.

Q. Has either your wife or your son ever been in the Hawaiian Islands? A. No.

Q. Whom does this photograph represent?

A. Lee Tan. (Referring to photograph of Lee Tan attached to Form 432 contained in File 4380/639.)

Q. Has he any other name? A. No.

Q. How do you know that that is Lee Tan?

A. He was a witness for me when I came to Honolulu in 1922.

Q. Did you ever see him in China? No.

Q. Is he any blood relation to you?

A. No relation.

Q. Did you know that he was going to be a witness for you in 1922? A. Yes.

Q. How did you know that?

A. My father wrote to him and told him to come as a witness for me.

Q. When did your father write to him?

A. At the time I was about to come to Honolulu.

Q. Did your father receive any correspondence from Lee Tan? A. I do not know.

Q. Did you ever hear of your father receiving any correspondence from him?

A. I do not know.

Q. Has Lee Tan a family? A. Yes.

Q. What family has he? A. A wife and son.

Q. What is the name of his wife and the name of his son? A. I do not know their names.

Q. How do you know that he has a wife and son?

A. My father and mother told me that he had a wife and son.

Q. Did you ever visit the home Lee Tan's in China? A. No.

Q. What is his native village?

A. Hang How Hee Village.

Q. How do you know that?

A. My father and mother told me.

Q. Where does Lee Tan live now?

A. I do not know where he is now.

Q. Have you seen him since you returned here in 1922? A. No.

Q. You have never seen Lee Tan since you were admitted here in 1922?

A. No, I [70] have never seen him.

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Q. Whom does this photograph represent—referring to photograph of Lee Man Kwai attached to Form 432 contained in file 4380/1745?

A. Lee Man Kwai.

Q. Where is he now?

A. I think he has gone to China.

Q. When did he go to China?

A. I do not know when he went, I just guessed he went to China.

Q. How did you happen to guess he went to China?

A. Because I have not seen him for a long time.

Q. When was the last time you saw him?

A. About three or four months ago.

NOTE: File 4380/1745 shows that Lee Man Kwai returned to China on the SS. "President Lincoln" February 11, 1927, without securing a Return Certificate from this office.

Q. Was he a witness for you when you were an applicant for admission in 1922? A. Yes.

Q. What is his native village in China?

A. Sun Chin Village.

Q. Is he married? A. Yes.

Q. What is the name of his wife?

A. Wong Shee.

Q. How old is she now?

A. Little over 40 years old.

Q. Has Lee Man Kwai any children?

A. Yes, one son and one daughter.

Q. Did you ever see Lee Man Kwai in China?

A. Yes, I saw him in China.

Q. When was the last time you saw him in China? A. About a year before I came here.

Q. Was that the first time you ever saw him?

A. Yes.

Q. Is he any blood relation to you? A. No.

Q. Does he live near your home at Sun Chin Village? A. No.

Q. How far from your home does he live?

A. About one-half hour's walk.

Q. Whom does this photograph represent—referring to photograph of Jong Tai Fong attached to Form 432 contained in file 4380/1862?

A. Jong Tai Fong.

Q. Was he a witness for you when you were an applicant for admission? A. Yes.

Q. Where is he now?

A. I do not know, he is either in the country or some other Island.

Q. When was the last time you saw him?

A. About six months ago.

Q. Where did you see him at that time?

A. On the street.

Q. Did you speak to him at that time? A. No.

Q. When was the last time you spoke to him?

A. That was about six months ago and I asked him where he was going and he said he was just walking around.

Q. Did you ever see him in China? A. Yes.

Q. Where? A. At Sun Chin Village, China.

Q. When was that?

Q. When he went to China a little over a year before I came here.

Q. Was that the first time you had ever seen him?

A. Yes.

Q. Did you ever go to his home in China?

A. Yes.

Q. How many times? A. About two times.

Q. Where is his house in China?

A. At Chung Bin Village.

Q. Did he ever visit your house in China?

A. Yes.

Q. How many times did he visit your house in China? A. About three or four times. [71]

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Q. When was that?

A. That was the year he was back in China.

Q. How did he happen to come to your house?

A. He is a friend of my father.

Q. How did you happen to go from your village to his village to visit his house?

A. I just went there to visit him.

Q. Does he know about your birth in the Hawaiian Islands? A. Yes.

Q. How?

A. He is a friend of my father's and at the time of my birth here he visited my father.

Q. How do you know that he visited your father in Honolulu about the time of your birth?

A. My father told me when Jong Tai Fong was last in China and my father also told me just before I came here in 1922.

Q. What did your father tell you about Jong Tai Fong's knowledge of your birth in the Hawaiian Islands?

A. My father told me that Jong Tai Fong was a good friend of his in Honolulu and knew of my birth here?

Q. Are you sure of that? A. Yes.

Q. Why should the records of this office show that Jong Tai Fong was not in the Hawaiian Islands at the time you claim to have been born here?

A. I do not know but my father told me he knew about my birth here.

Q. Why should all of your witnesses you had when you were an applicant for admission here in 1922 that your mother had natural feet and not bound feet as claimed by you at this time?

A. I do not remember what they said but that might be correct?

Q. What do you mean by that?

A. What I said before when I came here in 1922 is correct about my mother's feet.

Q. What did you say about your mother's feet when you were an applicant for admission here in 1922?

A. I do not know what I said at that time.

Q. When Lee Tan, Lee Man Kwai and Jong Tai Fong testified for you in 1922 and stated that your mother Wong Shee had natural feet, were their statements correct?

A. Their statements, I believe, were correct.

Q. Then your statement at this time that your mother Wong Shee has bound feet and not natural feet is incorrect—is that so?

A. No, my mother has bound feet, whatever I said in 1922; that is correct.

Q. What did you state in 1922 about your mother's feet?

A. Some of the testimony I remember and some I do not.

Q. What do you mean by some testimony you remember and some you do not remember?

A. I just remember some and do not remember the other.

Q. Was that testimony given by you in 1922 from your own knowledge? A. Yes.

Q. And if that testimony is true and from your own knowledge, why is it that you are not able to remember it at this time?

A. I remembered until I was admitted here and then I have worked and have forgotten since then.

Q. About how many houses are there in Sun Chin Village?

A. About three or four hundred houses.

Q. Do you know any one else in Sun Chin Village by the name of Lee Long, similar to that of your father? A. No.

Q. Did you ever hear of anyone by the name of Lee Long at Sun Chin Village, China? A. No.

Q. And you lived in that village from the time you were about how old?

A. From the time I was three years old until I was 27 years old. [72]

4382/1726. 8 May 17, 1927.

Q. Are there any Lee family temples in that village? A. Yes, three.

Q. Is your lane near Chuck Chai Lum?

A. It is about ten lanes from Chuck Chai Lum, it is all Sun Chin Village.

Q. Do you know anyone named Lee Sai Sing at Sun Chin Village, China? A. No.

Q. Did you ever hear of anyone named Lee Sai Sing at Sun Chin village? A. No.

Q. Do you know whose photograph this represents? (Referring to photograph of Lee Sai Sing attached to application and receipt of Certificate of Identity No. 41918 contained in file 4382/1481)?

A. I do not know.

Q. Did you ever see that person represented by the photograph just shown you? A. No.

Q. You are advised that the photograph of the person just shown you claims that his father is Lee Long and is now living in Sun Chin Village, China—what have you to say? A. I do not know.

Q. Is he, this Chinese whose photograph I have just shown you any blood relation to you?

A. No.

Q. And you do not know him or have seen him?

A. No.

Q. He also claims that he departed on the SS. "Peking" in KS. 23 10th month with his father and his mother, which is the same boat and date as you claim—what have you to say?

A. I do not know him, he is no relation of mine.

Q. Do you know this Chinese? (Referring to photograph of Lee Kam Poh attached to application and receipt for Certificate of Identity No. 49832 contained in file 4382/2014.)

A. I do not know who he is.

Q. Have you ever seen this Chinese before?

A. No.

Q. Did you ever see him at Sun Chin Village, China? A. No, I never saw him.

Q. Do you know anyone named Lee Kam Poh?

A. No.

Q. Did you ever hear of anyone by that name?

A. No.

Q. The photograph of the Chinese whom I have just shown you (referring to photograph of Lee Kam Poh contained in file 4382/2014) claims that his father is Lee Long now living at Sun Chin Village and that he departed for China from Honolulu on the SS. "Peking" in KS. 23 10th month with his father, Lee Long and mother—what have you to say? A. I have nothing to say.

Q. Are you any blood relation to this Lee Kam Poh, whose photograph I now show you contained in file 4382/2014? A. No.

Q. And you do not know any other Lee Long at Sun Chin Village besides your father?

A. No, I do not know any other.

Q. Did you ever hear of any other Lee Long at that village? A. No, I never heard.

Q. Have you anything further to state?

A. No.

Q. Have you understood the Interpreter at all times during this hearing? A. Yes.

Q. Have you testified at this time voluntarily and of your own free will and accord? A. Yes.

Signature of witness traced:

SAI YING LEE.

Certified correct transcript.

(S.) HELEN W. MULLER,
Stenographer. [73]

4382/1481; 1882;

4382/1726; 2014.

June 3, 1926.

MEMORANDUM.

Archives

The departure records at the Territorial Board
(S.) G. A. E.

of Health show that the SS. CITY OF PEKING,
departed from this port Oct. 9, 1897, and the follow-
ing passengers are noted thereon:

“LEE LEONG, WIFE and CHILD”

This departure record has been used in the fol-
lowing files of this office:

4382/1481; 4382/1726; 4382/1882 and 4382/2014.

(S.) GEO. A. ERBS,
Immigrant Inspector. [74]

U. S. DEPARTMENT OF LABOR.
Immigration Service.

OK.
HEM.

Office of Inspector in Charge
Honolulu, Hawaii.
(Date) Jan. 4, 1923.

Inspector in Charge,
U. S. Immigration Service,
Honolulu, T. H.

Sir:

I hereby make application for a CERTIFICATE OF IDENTITY as provided by Rule 19 of the Chinese Regulations.

Name: Lee Sai Ying, *alias* Lee Hung Chong.

Age: 27 yrs. Sex: Male.

Present Address: c/o L. Kwai Yow Co., Kaimuki,
Hono., T. H.

Height Without Shoes: 5 feet 5 inches.

Occupation: Student.

Admitted as Hawaiian-born.

Per. S. S. "Pres. Pierce." Date: Nov. 27, 1922.

Date Admitted: Dec. 6, 1922. File No. 4382/1726.

Physical Marks: Pock marks on forehead.

Signature of Applicant: (Signed in Chinese.)

Date of Issuance:

Received C. of I. No. 43097.

This 1st day of March, 1923.

(Photograph.)

Signature: (Signed in Chinese.) [75]

U. S. DEPARTMENT OF LABOR.

Immigration Service.

Port of Honolulu, T. H.

File No. 4382/1726.

BSI. #1.

RECORD OF BOARD OF SPECIAL INQUIRY.

In the Matter of the Application of LEE SAI
YING, 2-2, A-1 Hawaiian Born, Ex S/S.
"Pres. Pierce," 11/27/22, for Admission to
the UNITED STATES.

Convened—December 2, 1922.

Chairman—JACKSON L. MILLIGAN.

Member—LOUIS CEASAR.

Member—WM. K. ANAHU.

Interpreter—HEE KWONG.

Typist—JLM.

Held for Special Inquiry by Inspector HALSEY.

APPLICANT, sworn by Chairman, testifies:

Q. Have you secured an attorney to represent you in the hearing that is about to commence?

A. No.

Q. Do you expect to present witnesses to establish your right to admission to the United States?

A. Yes.

Q. During the course of this hearing it may be necessary for some officer of this Service to take testimony outside of this office, or go to some other Governmental office or place and search records. Are you willing that this should be done and have the testimony taken in this manner, and also have

the report of the search of the records considered by this Board of Special Inquiry? A. Yes.

Q. Do you desire a friend or relative present at this hearing? A. No.

Q. What dialect do you speak?

A. Heung San.

Q. Can you understand the Interpreter?

A. Yes.

Q. What are your names?

A. Lee Sai Ying, *alias* Lee Hung Chong; age, 27.

Q. What is the date of your birth?

A. KS. 21-2-25. (March 21, 1895.)

Q. What is your occupation? A. Farmer.

Q. How many years did you attend School?

A. Two years.

Q. How old were you when you quit? A. 17.

Q. Been farming ever since?

A. Yes, raising vegetables and sweet potatoes.

Q. Are you married?

A. Yes, to Yong Shee, age 24.

Q. From what village is she?

A. Sun Mun Tung.

Q. When were you married?

A. When I was 21.

Q. How many children have you?

A. One son Lee Chan Kwan, age 6.

Q. What is your village in China?

A. Sun Chin.

Q. Are your parents living?

A. Yes; father Lee Long, *alias* Lee Ping Pong, age 61, and mother Wong Shee, 51, natural feet.

Q. What is your father's occupation?

A. Farmer.

Q. Are his parents living?

A. No; I never saw them.

Q. What were their names?

A. Lee Check Sum and Siu Shee.

Q. How many brothers and sisters has your father?

A. None; never had any. [76]

APPLICANT (continued).

Q. From what village is your mother?

A. Wong Ook Pang.

Q. Are her parents living? A. No.

Q. How many brothers and sisters has your mother? A. None.

Q. How many brothers and sisters have you?

A. None.

Q. Ever have any that died? A. No.

Q. Where were you born?

A. Smith Street, near Hotel, Honolulu.

Q. How do you know that?

A. My mother told me.

Q. Anybody else ever tell you?

A. Also my father.

Q. When did you go to China?

A. 12th month, KS. 23, on the "Peking."

Q. Who took you to China? A. My parents.

Q. Did your father ever return here? A. No.

Q. What did he do in Hawaii?

A. Peddler eggs and fruits and general laborer.

Q. How large a village is Sun China?

A. 300 or 400 houses.

Q. Is that village known by any other name?

A. No.

Q. Did you ever hear of a place called Hee Hung Wan? A. It is Sun Chin Hee Hung Wan.

Q. Does any part of the village have any other name?

A. Chook Chai Lum is a small part of Hee Hung Wan.

Q. In what part of the village is your house?

A. Near the tail.

Q. Is it near the sea or near the mountains?

A. Near the hill.

Q. Does it face a street or lane? A. Lane.

Q. Is there a courtyard in front of your house?

A. No.

Q. How many houses does your father own?

A. One house.

Q. Your parents, wife and son all live together in that house? A. Yes.

Q. Who is there in Hawaii whom you know and can identify?

A. Lee Man Kwai; Chun Dai Fong; Lee Dan, but I don't remember Lee Dan.

Q. Anyone else here that you can identify?

A. Only those two.

Q. When did you last see Lee Man Kwai?

A. 5 or 6 years ago.

Q. How old a man is he?

A. About 48 or 49.

Q. Any relation to you?

A. Distant relative.

Q. What family has he in China?

A. Wife Wong Shee; 1 son Lee Ah Yau, 13 or 14;
1 daughter Lee Yee Mui, 11 or 12.

Q. Did he have any children born as a result of his last trip? A. No.

Q. How far is his house from yours?

A. About $\frac{1}{2}$ li.

Q. How did you happen to meet him?

A. I called at his house.

Q. How did you happen to call there?

A. Because we know him and heard he returned to China.

Q. Whom do you mean by "we"?

A. The former time my father took me to his house but the last time I went alone.

Q. Did you visit his house more than once while he was in China last? A. Twice.

Q. Did he call at your house?

A. Not the last time.

Q. When did you last see Chung Dai Fong?

A. He came back to Hawaii this year.

Q. What is his village? A. Chung Bin.

Q. How old a man is he? A. About 48 or 49.

Q. How did you happen to meet him?

A. He is a friend of my father and came to my house, and I went to his house.

Q. What family has he?

A. Wife only, don't know her name, 17 or 18.

Q. Have you ever seen Lee Dan in China?

A. No.

APPLICANT (continued).

Q. How many different families are represented in Sun Chin village? A. Lee and Ho.

Q. How many family temples? A. 3.

Q. How many idol temples? A. 3.

Q. How many stores in the village?

A. 3 or 4 small stores.

Q. What is the nearest market?

A. Sar Kai Hee, but it is more than a tong away.

Q. Are you sure there is no one else here whom you know?

A. Many I know them if I see them, but can't remember their names; I know Lee Sau came back a short time ago. I also remember Lee Leong Bew.

Q. Any further statement to make? A. No.

(Signed in Chinese.)

Witness sworn, testifies: CR. 6962, verified 6/1/21.

Q. Name and age?

A. Jong Tai Fong, *alias* Jong Dat Lim, 50.

Q. Occupation? A. Rice planter.

Q. Where were you born?

A. Chung Bin village—China.

Q. When did you first come to Hawaii?

A. KS. 24.

Q. Been back?

A. Yes, once last year and returned this year.

Q. For whom are you a witness to-day?

A. Lee Sai Ying.

Q. How old? A. 26 or 27.

Q. Where was he born?

A. Hawaii—Smith Street near where Sun Yuen Wo is now.

Q. How do you know that?

A. I went to his father's house in China and asked his father something about Hawaii and saw the boy there and the father told me he took the boy to China a short time ago.

Q. That was before you came to Hawaii?

A. Yes.

Q. What village is the applicant from?

A. Sun Chin.

Q. His parents living? A. Yes.

Q. Father's name?

A. Lee Long, *alias* Lee Ping Bo.

Q. Name of the mother?

A. Wong She, natural feet.

Q. How did you happen to go from your village to another village and meet this Lee Long and find out about his family?

A. I heard he was from Hawaii and I wanted to come here so I went there to ask him about Hawaii.

Q. How many children did you find there?

A. One son.

Q. How old was this boy at that time?

A. About 3 or 4 years old.

Q. You ever see him since.

A. I saw him last year when I went back to China.

Q. What was he doing?

A. He was planting rice with his father.

Q. Is he married? A. Yes.

Q. Name of his wife? A. Young She.

Q. How many children have they?

A. One son only.

Q. How many times did you visit the house on your last trip?

A. Many times—about 10 times.

Q. During all the time the applicant and his father were planting rice were they? A. Yes.

Q. The applicant gives an altogether different occupation than that?

A. He was planting rice with his father in the village.

Q. Can you identify him? A. Yes.

No. 4382/1726.

12/2/22. [78]

(Identification is mutual.)

Q. Has this applicant ever visited your house?

A. Yes.

Q. Who is living in your house?

A. My wife—only my wife—

Q. How large a village is Sun Chin?

A. About 400 or 500 houses.

Q. What part of the village is the applicant's house?

A. Near the center part of the village—interior part—not outside.

Q. Is his house near the sea or near the mountains?

A. Not near the sea nor the mountains.

Q. Is that village known by any other name?

A. Sun Chin—Heung Wan—

Q. The applicant's parents, himself and family all live in one house or do they have more than one house? A. All live in one house.

Q. Any further statement to make? A. No.

(Signed in Chinese.)

Witness sworn, testifies: CR. 865, verified
10/20/11—1/3/03.

Q. Name and age?

A. Lee Tan, *alias* Lee Pui Nam, 56.

Q. Occupation? A. Landlord.

Q. Where were you born?

A. Hank How Hee—Lung Doo—

Q. When did you first come to Hawaii?

A. KS. 12 (1886).

Q. How many trips have you made?

A. Once.

Q. Only once? A. Yes.

Q. When was that? A. 1903.

Q. Family in Hawaii?

A. No, in China.

Q. Name of your wife? A. Chang She.

Q. How many children have you?

A. One son only—Lee Hung Jow, 17.

Q. For whom are you a witness to-day?

A. Lee Sai Ying.

Q. How old is he? A. About 26 or 27.

Q. Where was he born?

A. Corner of Smith and Hotel Streets.

Q. How do you know that?

A. I was a bookkeeper in the corner opposite the house where he lived before and saw him.

Q. His parents living? A. Yes.

Q. Father's name? A. Lee Long.

Q. Mother's name? A. Wong She—natural feet—

Q. When did you first become acquainted with Lee Long?

A. About KS. 16 or 17 (1890) or (1891).

Q. Did he have a wife here at that time when you first met him? A. Yes.

Q. What did Lee Long do in Hawaii?

A. He was an egg peddler.

Q. How many children did they have born here?

A. One to my knowledge.

Q. When did the applicant go to China?

A. About KS. 21 or 22 I don't quite remember.

Q. Who went with him?

A. His father and mother.

Q. His father ever return here? A. No.

Q. Have you ever seen the applicant since he went to China? A. No.

Q. All you know is that Lee Long and his wife had a son by this name born in Hawaii? A. Yes.

Q. Any further statement to make? A. No.

(S.) LAN DUN.

4382/1726

12/6/22. [79]

Witness sworn, testifies: Cr. 7559, verified 12/22/08—9/19/01—5/9/21.

Q. Name and age?

A. Lee Man Kwai, *alias* Lee Yin Hoo, 49.

Q. Occupation? A. Vegetable planter.

Q. Where were you born? A. Sun Chin.

Q. When did you first come to Hawaii?

A. KS. 21 (1895).

Q. How many trips have you made?

A. Four trips.

Q. Name of your wife? A. Wong She.

Q. How many children have you?

A. One son and one daughter.

Q. Names and ages?

A. Lee Yau, 14 or 15, son; Yee Mui, 11.

Q. For whom are you a witness to-day?

A. Lee Sai Ying.

Q. How old is he? A. About 26 or 27.

Q. What right has he to be admitted here?

A. He was born in this island.

Q. Whereabouts on this island?

A. Smith near Hotel.

Q. How do you know that?

A. He was born little after a year after I came here.

Q. What month did you arrive in Hawaii?

A. When I arrived here I saw him here he is from my village.

Q. I say what month did you arrive here on your first trip to China? A. I don't remember.

Q. You sure it was KS. 21? A. Yes.

Q. This applicant testifies he was born in the 2d month of KS. 21 now how could he have been born a year after you arrived?

A. I don't quite remember.

Q. You don't remember whether he was born before or after you came to Hawaii?

A. I was admitted here on the first month.

Q. And he was born a year later was he?

A. I do not know where he lived when I first came here—I went to his house 4 or 5 months later.

Q. Did you see the applicant at that time or was he born later? A. He was born then.

- Q. Name of the father? A. Lee Long.
- Q. You know his other name?
- A. Lee Ping Bo.
- Q. What did he do in Hawaii? A. Peddler.
- Q. Name of the mother?
- A. Wong She—natural feet—
- Q. How many children did they have born here?
- A. Only the applicant?
- Q. When did he go to China?
- A. I don't quite remember.
- Q. How old was he?
- A. He was 2 or 3 years older.
- Q. Who went with him? A. His father.
- Q. What became of the mother?
- A. The mother also went.
- Q. The father ever come back to Hawaii?
- A. No.
- Q. Have you ever seen this family since they went to China?
- A. Yes, he went to my place very often.
- Q. What is their village in China?
- A. Sun Chin.
- Q. Their house near yours?
- A. About $\frac{1}{2}$ lee.
- Q. Have you seen this family on all of your four trips? A. Yes.
- Q. They any relation to you?
- A. No relation—same family name.
- Q. What was the applicant doing on your last trip to China? A. Planting rice.
- Q. What was the father doing?
- A. Also planting rice.

Q. Was the applicant married on your last trip?

A. Yes.

Q. Name of his wife? A. Young She.

Q. How many children did they have?

A. One son.

Q. Is that village known by any other name?

A. Sometimes known as Chuck Chai Lum Sun Chin and Heung Wan.

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12-6-22. [80]

Q. In what division of the village is the applicant's house? A. Sun Chin.

Q. Is his house near the hills or near the sea?

A. Near the hill.

Q. The part known as Chuck Chai Lum is near the sea?

A. Chuck Chai Lum is the same as the other part of the village.

Q. How many family temples are there in the village?

A. 3 family temples—3 idol temples.

Q. How many stores?

A. Two main stores and one small little store when I was in China.

Q. Can you identify the applicant? A. Yes.

(Identification is mutual.)

Q. You swear the person you just saw is the son of Lee Long and that you know of your own knowledge that he was born in Hawaii? A. Yes.

Q. Any further statement to make? A. No.

(Signed in Chinese.)

Applicant recalled, testifies: (Notified he is still under oath to tell the truth).

Q. How old were you when you quit school?

A. When I was 17.

Q. What have you been doing since then?

A. Planting rice.

Q. All the time? A. Yes.

Q. What did you tell us the other day that you had been planting vegetables and sweet potatoes for?

A. Not only planted rice—I also planted any kind of vegetables—sweet potatoes and melons.

Q. How many different occasions do you remember of seeing Lee Man Kwai in the village?

A. Three or four—four or five.

4382/1726.

12-6-22. [81]

NOTE: The records at the Territorial Archives show that Lee Long, wife and child departed per SS. "City of Peking," Oct. 9, 1897.

MOTION.

JACKSON L. MILLIGAN.—From the departure record, identifications and testimony offered at this time I am of the opinion the applicant was born in Hawaii and move that he be admitted as Hawaiian Born. The preponderance of evidence is in favor of the applicant.

WILLIAM ANAHU.—I second the motion.

LOUIS CAESAR.—I concur.

Certified to be correct.

(S.) J. L. MILLIGAN,

Typist.

4382/1726.

12-6-22.

7-21-25.

See departure record in case 4382/1481 and 4382/1882.

(S.) G. A. E. [82]

[Title of Court and Cause.]

(Photograph)

(Seal)

PETITION FOR APPEAL.

To the Honorable RICHARD L. HALSEY, Inspector in Charge, United States Immigration Station, Port of Honolulu, City and County of Honolulu, Territory of Hawaii:

Your petitioner begs leave to make and file this application for and in behalf of Lee Sai Ying, a native-born citizen of the Territory of Hawaii and of the United States, now residing in China, for permission to return to the land of his birth to reside therein and begs further to submit as follows:

That Lee Sai Ying was born at Honolulu, Territory of Hawaii, some 27 years ago, the son of Lee Long and Wong Shee, father and mother respectively.

That Lee Long resided at one time on Smith Street near Hotel Street, in said Honolulu, and was a peddler by occupation; that at this home on Smith Street Lee Sai Ying was born.

That in the year 1897 about the month of October Lee Long took his wife and child and returned to

China, departing from the Port of Honolulu, on board the SS. "Peking." [83]

That Lee Sai Ying had since remained in China in the Village of Sun-chin, Lung-doo, Heungshan, and has now attained manhood, he being 27 years of age at this time; that the photograph attached to the margin hereof is a good likeness of him at the present.

That your petitioner being acquainted with the facts of the case has been requested to file this petition in his behalf.

That your petitioner further submits that he is 56 years of age and had come to the Hawaiian Islands from Lung-doo, China, some 36 years ago; that he is now engaged in the real estate business, residing in said City and County of Honolulu, Territory of Hawaii; that he knew the person named Lee Long, who with his wife resided on Smith Street, in said Honolulu; that he is also acquainted with the fact that said Lee Long and his wife, Wong Shee, had but one child, a son named Lee Sai Ying.

Your petitioner was at Honolulu, at the time of the boy's birth and knew of it from his own knowledge; that Lee Long being a peddler by trade was well known to your petitioner, who for that reason quite frequently called at the Lee Long household, and your petitioner saw the boy on these occasions; a year or so later Lee Long took his wife and child and returned to China, where the boys has remained ever since; that your petitioner has not seen Lee Sai Ying in the many years that he has resided in

China, but believes that the photograph attached hereto is his photograph at this time. [84]

Your petitioner further submits the affidavit of another witness who is familiar with the facts of this matter and who vouches for the identity of Lee Sai Ying.

WHEREFORE your petitioner prays that said Lee Sai Ying be granted permission to return to the land of his birth and upon his arrival at the Port of Honolulu, to admit him under the status hereby claimed in his behalf.

Dated at Honolulu, T. H., this 12th day of July, A. D. 1922.

(S.) LEE DAN.

Territory of Hawaii,
City and County of Honolulu,—ss.

Lee Dan, being first duly sworn, on his oath deposes and says: That he is the petitioner who makes this application for and in behalf of Lee Sai Ying; that he has read said petition and knows the contents thereof and that the matters therein stated are true.

(S.) LEE DAN.

Subscribed and sworn to before me this 12th day of July, A. D. 1922.

[Seal] (S.) ANTHONY Y. SETO,
Notary Public, First Judicial Circuit, Territory of
Hawaii. [85]

AFFIDAVIT OF JUNG DAI FONG.

Territory of Hawaii,
City and County of Honolulu,—ss.

Jung Dai Fong, being duly sworn, on his oath deposes and says: That he is a resident of Honolulu, City and County of Honolulu, Territory of Hawaii; that he is 50 years of age and had come to the Hawaiian Islands from China, in 1898, from the Village Chung-bin, Lung-doo, Heungshan; that he knew the family of Lee Long of the Village of Sun-chin, consisting of his wife, Wong Shee, and a son Lee Sai Ying; that this acquaintance began in China in the year prior to his departure for the Hawaiian Islands; that it was affiant's intention to come to the Hawaiian Islands at the time so that when he heard of Lee Long's arrival and return from the very country to which he was emigrating, he made frequent visits to Lee Long making inquiries of the condition and opportunities in the Hawaiian Islands; that during these visits he also saw Wong Shee and their son, Lee Sai Ying; that later affiant came to the Hawaiian Islands and did not see the old village again until 1921, when affiant returned to his old home in China; that affiant again saw the family of Lee Long at Sun-chin and he identifies the photograph attached to the petition as that of Lee Sai Ying, whom he saw in China on this last occasion and knew as the son of Lee Long.

(Signed in Chinese.)

JUNG DAI FONG.

Signing in Chinese.

(S.) A. Y. S.

Subscribed and sworn to before me this 12th day of July, A. D. 1922.

(S.) ANTHONY Y SETO,
Notary Public, First Judicial Circuit, Territory of
Hawaii. [86]

[Endorsed]: In the United States District Court for the Territory of Hawaii. Cr. No. 5564. The United States of America, Plaintiff, vs. Lee Sai Ying, *alias* Lee Hung Chong, Defendant. Assignment of Errors. Filed September 30, 1927, at 11 o'clock and 30 minutes A. M. Wm. L. Rosa, Clerk. By (S.) Wm. F. Thompson, Jr., Deputy Clerk. [90]

[Title of Court and Cause.]

ASSIGNMENT OF ERRORS.

Comes now defendant above named and files the following assignment of errors on which he will rely in the prosecution of his appeal in the above-entitled cause from the judgment entered herein on the 27th day of September, 1927, in the United States District Court in and for the District and Territory of Hawaii:

1. That the said United States District Court erred in holding and finding that defendant was unlawfully in the United States.

2. That the said United States District Court erred in holding and finding that defendant was not a citizen of the United States.

3. That the said United States District Court erred in holding and finding that defendant was a citizen or subject of the Republic of China.

4. That the said United States District Court erred in holding and finding that defendant was a laborer within the meaning of the Chinese Exclusion Act, found within the United States without the Certificate of Residence required by law. [91]

5. That the said United States District Court erred in ordering and directing the deportation of defendant from the United States to the Republic of China.

6. That the said United States District Court erred in holding and finding that the defendant had not sustained the required burden of proof to establish his lawful right to be and remain in the United States.

7. That the said United States District Court erred in holding and finding that the plaintiff had made out a case entitling it to an order and judgment of deportation against defendant.

8. That the decision and determination of the said United States District Court is contrary to law for the following reasons:

(a) That in the course of the hearing in the above-entitled matter defendant produced and introduced in evidence his Certificate of Identity issued to him by the Immigration Inspector in Charge at the Port of Honolulu following his arrival and admission here, after a hearing before a Board of Special Inquiry, as a Hawaiian-born citizen of the United States; and plaintiff having in no way im-

peached or otherwise discredited said certificate, or the evidence taken on the hearing before said Board of Special Inquiry when defendant was admitted as aforesaid, defendant was entitled to the dismissal of the complaint and his discharge.

(b) That plaintiff failed to establish that defendant is not entitled to be and remain in the United States.

(c) That plaintiff failed to overcome the *prima facie* case made out by defendant by the production and introduction in evidence of his Certificate of Identity, and the Court [92] therefore erred in denying defendant's motions for discharge and dismissal of the complaint and in ordering and directing the deportation of defendant to the Republic of China.

(d) That the Court erred in not holding and finding there was a failure of proof on the part of plaintiff.

(3) That defendant being charged with having gained his admission into the United States by fraudulent means and representations, the Court erred in not holding and finding that the burden of proof as to such unlawful entry was upon plaintiff, the defendant having produced and introduced in evidence his Certificate of Identity issued to him following his admission at the Port of Honolulu as a Hawaiian-born citizen of the United States.

WHEREFORE, the appellant prays that said judgment and order of deportation be reversed and that said District Court for the District of Hawaii

be ordered to enter a judgment dismissing said complaint and discharging appellant.

(S.) L. P. SCOTT,

Attorney for Appellant.

Received copy of above assignment of errors.

(S.) CHARLES H. HOGG,

Assistant United States Attorney, District of Hawaii. [93]

[Endorsed]: In the United States District Court for the Territory of Hawaii. Cr. No. 5564. The United States of America, Plaintiff, vs. Lee Sai Ying, *alias* Lee Hung Chong, Defendant. Findings, Judgment and Order of Deportation. Filed September 27, 1927, at 3 o'clock and 07 minutes P. M. Wm. L. Rosa, Clerk. By (S.) Wm. F. Thompson, Jr., Deputy Clerk. [103]

In the United States District Court for the Territory of Hawaii.

Cr. No. 5564.

THE UNITED STATES OF AMERICA,

Plaintiff,

vs.

LEE SAI YING, *alias* LEE HUNG CHONG,

Defendant.

FINDINGS, JUDGMENT AND ORDER OF
DEPORTATION.

This cause came on regularly for hearing upon the sworn complaint of George A. Erbs, Immigra-

tion Inspector of the United States of America for the Territory and District of Hawaii, charging that the defendant is a person of Chinese descent, and a Chinese laborer within the United States and within the jurisdiction of the United States District Court for the Territory of Hawaii without a Certificate of Residence required by the Act of Congress entitled "An Act to Prohibit the Coming of Chinese Persons to the United States," approved May 5, 1892, and amended November 3, 1893; that on or about the 6th day of December, 1922, he unlawfully obtained admission to the United States by falsely and fraudulently representing himself to be a citizen of the United States; and that he is not entitled to be or remain in the United States.

On the 8th day of June, 1927, the said Lee Sai Ying, *alias* Lee Hung Chong, appearing in person and with his attorney, Leslie P. Scott, Esquire, and Charles H. Hogg, Assistant United States Attorney for the District of Hawaii, appearing for the United States, this cause came on regularly for hearing and the same [104] having been duly heard and submitted and due consideration having been thereon had, I do find as follows:

That said Lee Sai Ying, *alias* Lee Hung Chong, is a Chinese person and a person of Chinese descent and was born in China and is a subject of the Chinese government; that he is a Chinese laborer; that he was found within the limits of the United States, to wit, in the City and County of Honolulu, Territory of Hawaii, on or about the 18th day of May, 1927, without a Certificate of Residence required by

the Act of Congress entitled "An Act to Prohibit the Coming of Chinese Persons to the United States," approved May 5, 1892, as amended November 3, 1893; and that the said Lee Sai Ying, *alias* Lee Hung Chong, did not establish by affirmative proof to the satisfaction of this Court his lawful right to remain in the United States.

NOW, THEREFORE, in consideration of the premises aforesaid, it is ORDERED, ADJUDGED AND DECREED that the defendant, the said Lee Sai Ying, *alias* Lee Hung Chong, be removed and deported from the United States to the country whence he came, to wit, Republic of China; and

IT IS FURTHER ORDERED that such deportation of the said Lee Sai Ying, *alias* Lee Hung Chong, be made from the Port of Honolulu, in the Territory and District of Hawaii, and that he is hereby committed to the custody of the United States marshal for the District of Hawaii to carry this order into effect.

Dated: Honolulu, T. H., September 27, 1927.

WILLIAM T. RAWLINS.

WILLIAM T. RAWLINS,

Judge, United States District Court, Territory of Hawaii. [105]

[Title of Court and Cause.]

CERTIFICATE OF CLERK U. S. DISTRICT COURT TO TRANSCRIPT OF RECORD.

I, Wm. L. Rosa, Clerk of the United States District Court for the Territory of Hawaii, do hereby

certify the foregoing pages, numbered from 1 to 109, inclusive, to be a true and complete transcript of the record and proceedings had in said court in the above-entitled cause, as the same remains of record and on file in my office, and I further certify that I am attaching hereto the original citation five orders for the enlargement of time for docketing case and that the cost of the foregoing transcript of record is \$43.50, and that said amount has been paid to me by the appellants.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of said court this 4th day of May, A. D. 1928.

[Seal]

WM. L. ROSA,

Clerk, United States District Court, Territory of Hawaii. [109]

[Endorsed]: No. 5494. United States Circuit Court of Appeals for the Ninth Circuit. Lee Sai Ying, *alias* Lee Hung Chong, Appellant, vs. The United States of America, Appellee. Transcript of Record. Upon Appeal from the United States District Court for the Territory of Hawaii.

Filed May 18, 1928.

PAUL P. O'BRIEN,

Clerk of the United States Circuit Court of Appeals for the Ninth Circuit.

In the United States Circuit Court of Appeals for
the Ninth Circuit.

No. 5494.

LEE SAI YING, *alias* LEE HUNG CHONG,
Appellant,

vs.

THE UNITED STATES OF AMERICA,
Appellee.

APPELLANT'S DESIGNATION OF PARTS
OF THE RECORD TO BE PRINTED.

To the Clerk of the Above-entitled Court:

In preparing the printed transcript of the record upon the appeal in the above-entitled cause please print in said transcript all the parts of the record, except the following, which may be omitted:

PARTS OF THE RECORD TO BE OMITTED
FROM THE PRINTED TRANSCRIPT.

Title of Paper, etc.	Page in Original Record.
1. Clerk's Statement	4- 5.
2. Enlargements of Time for Docketing Case	6- 13, both inclusive.
3. Minute Orders Continuing Time of Trial	20, 21.
4. The following colloquy between Court and counsel:	.
(a) Commencing on page 42, on the fourth line from the bottom with the words "on the" to and including page 44, line 5, ending with the word "matter";	

Title of Paper, etc.	Page in Original Record.
(b) Commencing on page 52, line 6, with the words "This is" to and including page 61, line 15, ending with the word "fraudulently."	
(c) All of page 62, and the first twenty-two lines of page 63, ending with the word "matter."	
5. Petition for Appeal	87- 89 inclusive.
6. Order Allowing Appeal	94- 96 inclusive.
7. Citation on Appeal	97- 99 inclusive.
8. Cost Bond	100-102 inclusive.
9. Praecipe for Transcript of Record..	106-108 inclusive.

Dated: San Francisco, California, August 23, 1928.

LESLIE P. SCOTT,
W. H. EBERLY,
Attorneys for Appellant.

IT IS HEREBY STIPULATED that the appeal may be heard upon the record printed in accordance with the foregoing designation.

Dated: San Francisco, California, August 24, 1928.

GEO. J. HATFIELD,
U. S. Atty.
GEO. M. NAUS,
Asst. United States Attorney.

[Endorsed]: Filed Aug. 24, 1928. Paul P. O'Brien, Clerk.

